

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-0527V

(not to be published)

MICHAEL JOSEPH DEUTSCH,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 12, 2023

Special Processing Unit (SPU);  
Attorney's Fees and Costs

*Maximillian J. Muller, Muller Brazil, LLP, Dresher, PA, for Petitioner.*

*Camille Michelle Collett, U.S. Department of Justice, Washington, DC, for Respondent.*

### **DECISION ON ATTORNEY'S FEES AND COSTS<sup>1</sup>**

On April 10, 2018, Michael Joseph Deutsch filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the "Vaccine Act"). Petitioner alleges that he suffered a shoulder injury related to vaccine administration as a result of an influenza vaccine he received on December 1, 2016. Petition, ECF No. 1. On March 2, 2023, I issued a decision awarding damages to Petitioner, following damages briefing and a motions day hearing. ECF No. 76.

Petitioner has now filed a motion for attorney's fees and costs, requesting an award of \$29,041.77 (representing \$28,058.40 for fees and \$983.37 for costs). Petitioner's Application for Attorneys' Fees and Costs ("Motion") filed May 4, 2023, ECF No. 81. In

<sup>1</sup> In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

accordance with General Order No. 9, counsel for Petitioner represents that Petitioner incurred no out-of-pocket expenses. *Id.* at 2.

Respondent reacted to the motion on May 8, 2023, indicating that he is satisfied that the statutory requirements for an award of attorney's fees and costs are met in this case, but deferring resolution of the amount to be awarded to my discretion. Respondent's Response to Motion at 2-3, 3 n.2, ECF No. 82. Petitioner did not file a reply thereafter.

I note this case required additional briefing regarding the issue of pain and suffering and participation in a Motions Day hearing. See Status Report; filed Apr. 11, 2022, ECF No. 68; Petitioner's Brief in Support of Damages; filed June 10, 2022, ECF No. 70; Petitioner's Reply Brief in Support of Damages; filed Oct. 10, 2022, ECF No. 73; and Hearing Minute Entry, dated Feb. 24, 2023. Petitioner's counsel expended approximately 7.40 hours drafting his brief in support of damages; and 4.40 hours drafting his reply brief. Motion at 12-13. I find this amount of time to be reasonable.

I have reviewed the billing records submitted with Petitioner's request. In my experience, the request appears reasonable, and I find no cause to reduce the requested hours or rates. Furthermore, Petitioner has provided supporting documentation for all claimed costs. Attachment to Motion at 16-27. Respondent offered no specific objection to the rates or amounts sought.

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). I award a total of **\$29,041.77 (representing \$28,058.40 for fees and \$983.37 in costs) as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel, Maximillian J. Muller.** In the absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.